



*Submitted Electronically*

May 21, 2025

Mr. Christopher Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

**Re: Request for Comment on the Trading and Clearing of “Perpetual” Style Derivatives**

Dear Mr. Kirkpatrick:

We thank you for the opportunity to provide a response to the Request for Comment on perpetual derivatives contracts (“Perpetual Derivatives”). We welcome the Commodity Futures Trading Commission’s (“Commission”) proactive approach to understanding the evolving landscape of perpetual products and their implications for market integrity, customer protection, and risk management.

As President Trump indicated in Executive Order 14178 dated January 23, 2025, the digital assets industry plays a crucial role in innovation and economic development in the United States, as well as our nation’s international leadership. The United States’ capital markets account for 50% of global value across traditional financial markets. We, however, estimate that more than 85% of digital asset spot trading in major cryptocurrencies is conducted outside the United States, even though approximately 45-60% of digital asset spot trading activity happens during U.S. market hours. We believe this presents a unique opportunity to build a robust, onshore digital asset market under U.S. regulatory frameworks.

As the first CFTC-registered swap dealer exclusively focused on digital assets, FalconX Bravo, Inc. partners with leading institutional investors, providing us a unique vantage point into the digital assets market. Based on our research, total futures open interest on BTC, ETH, and SOL accounted for \$103.6 billion notional as of May 15th, 2025<sup>1</sup>. Of this, we estimate that perpetual futures represent 95% of total digital asset futures open interest. We believe that perpetual derivatives represent a significant innovation in global derivatives markets, as evidenced by their dominance in the digital asset futures markets.

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<sup>1</sup> Source: Internal FalconX estimate based on data from Amberdata, Velo and CoinGlass.



Turning now to the specific questions raised by the Commission, we note that our responses below reflect both our practical experience as a registered swap dealer focused on digital asset derivatives, as well as our commitment to fostering innovative, robust, transparent, and resilient capital markets in the United States. We address some of the Commission’s questions that particularly relate to digital assets given our role as a market participant below in turn, providing analysis and recommendations where appropriate. We recognize that some commodities may not be suitable for trading as perpetual derivatives and our responses are limited to the digital asset markets.

**1. What is an appropriate working definition of “perpetual derivative?” In addressing this question, please consider: a. What characteristics must a product have to qualify as a “perpetual” derivative? b. Is there a taxonomy of different kinds of perpetual derivatives and what would be key characteristics in this taxonomy? c. Are there specific characteristics that distinguish a perpetual futures contract from other perpetual derivatives?**

A perpetual derivative—commonly referred to as a “perpetual contract” or “perp”—is a financial instrument that allows participants to gain exposure to the price movement of a reference asset without owning it, and crucially, without a fixed expiry date. These contracts are typically cash-settled and employ a funding rate mechanism to keep the contract price closely aligned with the spot price of the underlying asset. The contract’s value is continuously referenced to the spot market, rather than converging at a set expiration date.

The funding rate mechanism incentivizes liquidity providers to ensure that the price of the derivative contract does not materially diverge from the price of the reference asset in the spot market. Additionally, the funding mechanism enables price discovery of funding costs for the reference asset.

The growth of perpetual futures has been particularly instrumental in the growth of the digital assets industry due to the global nature of the industry, where products are traded on a 24/7 basis. Perpetual futures enable market participants to express a view on the price movement of a reference asset, such as Bitcoin, Ethereum or other digital assets, without owning the asset itself and assuming custody risks. Additionally, perpetual futures allow market participants to regularly benchmark funding costs, without depending on opaque overnight funding markets. Perpetual futures serve an organic market need that addresses these custody and funding risk concerns.

We note that while perpetual derivatives could have a variety of structures, including perpetual swaps and options, perpetual futures are currently the dominant form and only meaningful category of perpetual derivative in the digital asset markets. Therefore, at least initially, a robust taxonomy may be unnecessary, at least for the digital asset markets.



**2. Would Perpetual Derivatives have advantages for market participants over traditional futures contracts or spot market products? Would Perpetual Derivative products provide commercial risk management features that cannot be met with existing products?**

Perpetual derivatives offer distinct advantages to market participants over traditional futures contracts or spot market products. The current market demand for digital asset perpetuals, as evidenced by the volume, is proof of this fact. The advantages of these products include:

- **Lower Costs:** Counterparties will often seek to roll over termed derivative contracts, incurring transaction costs while doing so. A perpetual derivative, on the other hand, does not force a market participant to incur transaction costs for rolling over the contract. The market participant elects to exit the contract by selling the contract on an exchange whenever they want, or, in the case of a perpetual option, by exercising their rights under the contract.
- **Funding Flexibility:** The funding mechanism embedded into perpetual derivatives allows market participants to manage funding risks on a real time basis. Outside of perpetual derivatives, market participants need to manage their funding costs using overnight funding markets, which are often opaque and operationally difficult to manage. This continuous funding flexibility is particularly critical in global markets traded on a twenty-four hour / seven day a week basis.
- **Risk Management Flexibility:** Lower duration risk and ease of liquidation of perpetual derivatives make them attractive for dynamic hedging strategies.
- **Increased Liquidity:** By removing expiries, liquidity is concentrated in a single contract, enhancing depth and efficiency.
- **Loss Limitation Mechanisms:** Many digital asset exchanges implement mechanisms to cap losses at initial margin, which can be more protective than traditional futures.

**3. Would Perpetual Derivatives products pose any unique risks for market participants or the broader markets? Are there additional protections or safeguards that the Commission or exchanges should adopt to mitigate risks associated with these products?**

The primary risk for a perpetual derivative is the potential for the contract price to deviate (or



‘de-peg’) from the spot price for a theoretically infinite period of time (unlike in the case of a termed derivative where the spot price and the value of the derivative are forced to converge upon expiry). These deviations can be caused by imbalances in the funding rates or market stress but are mitigated by the funding mechanism.

Additional protections or safeguards should include a robust funding rate calculation, margin & liquidation protocols and surveillance. Transparent, multi-venue indices would reduce manipulation risk by providing a robust and more importantly common funding rate calculation. Ensuring well calibrated margin requirements and real time monitoring would flag periods of stress and potential de-pegging while enhanced trade surveillance can help detect and deter manipulative behavior.

**4. Do the current risk disclosures that futures commission merchants are required to provide customers, pursuant to Commission regulations, adequate to address risks associated with Perpetual Derivatives? If not, what additional disclosures should be required to be provided to customers?**

We offer no view on this question as we currently do not offer futures commission merchant services. However, we note that perpetual futures typically have loss limitation mechanisms prescribed by exchanges which would limit a customer's downside risks to the initial amount posted to the exchange. Additionally, perpetual futures have lower duration risk, since the funding rate is reset often.

**5. Do Perpetual Derivatives pose any unique risks if they were to be offered in physical commodity markets, such as with agricultural or energy commodity derivatives?**

We offer no view on this question.

**6. Do Perpetual Derivatives raise unique concerns about susceptibility to manipulation? a. Are there additional protections or safeguards that should be adopted by the Commission or exchanges to mitigate concerns about susceptibility to manipulation with Perpetual Derivatives? b. Is there any additional guidance the Commission should adopt to clarify the regulatory treatment of Perpetual Derivatives? c. Would Perpetual Derivatives raise any novel concerns with regard to conflicts of interest?**

While perpetual derivatives in the digital asset space may be susceptible to manipulation, many of the Commission’s traditional tools will help mitigate the risks. For example, the prohibitions against wash trading, spoofing, and the tools used to detect them should help protect the perpetual



markets just as they do in traditional futures markets. In addition, the underlying markets also have unique features that may actually mitigate the impact of any attempt to manipulate the perpetual derivatives market. Specifically, liquidity is typically a protective force and the liquidity for perpetual derivatives may be greater at any given moment since there is only one tenor and liquidity will not be spread across the curve. Also, if the price does dislocate, the funding mechanism can help realign it by encouraging traders to take positions that bring the contract price closer to the spot price, effectively pushing convergence on a continuous basis.

We do not believe that perpetual derivatives raise novel concerns with regard to conflicts of interest.

**7. Do Perpetual Derivatives raise unique surveillance concerns for exchanges listing perpetual products?**

In many respects, the surveillance tools used by exchanges to oversee traditional futures markets will be the same for perpetual derivatives. To the extent that concerns about wash trading, spoofing, and other manipulation practices exist in the perpetual derivatives markets, the speed of the settlement cycle should not affect the fundamental nature of the misconduct, which could be uncovered using traditional tools. New tools may be required to monitor the funding rate and the effectiveness of the funding mechanism, but the tools should not be difficult to develop.

**8. Do Perpetual Derivatives have the potential to adversely impact the liquidity or usefulness for commercial risk management purposes of traditional futures market products?**

We do not believe that perpetual derivatives have the potential to adversely impact the liquidity or usefulness for commercial risk management purposes of traditional futures markets products. We believe that traditional futures market products and perpetual derivatives have distinct use cases, suited to their respective spot markets, such that they can co-exist as product offerings for their respective users. Perpetual derivatives are particularly well suited to markets that trade on a twenty-four basis, where continuously recalibrated funding rate mechanisms are important. This is not the case for most traditional spot markets, in which case traditional futures might be more appropriate to hedge the relevant risks.

**9. Please describe the likely user base for Perpetual Derivatives. Will Perpetual Derivatives attract the same array of market participants as traditional futures, including commercials, asset managers, hedge funds, speculators, and others?**





We expect that the likely user base for perpetual derivatives in the digital asset space will eventually include the same array of market participants as traditional futures, including institutional asset managers, hedge funds, and investment professionals. We note, however, that the growth of perpetual derivatives is likely to be linked to the growth of spot digital asset markets, many of which are not currently traded by some of the market participants mentioned above. Accordingly, we believe that at least initially perpetual derivatives for digital assets are likely to be traded by sophisticated digital asset traders, including certain high net worth retail clients who are experienced and knowledgeable about the digital asset markets.

**10. Are some traditional futures market participants less likely to participate in Perpetual Derivatives markets? Will Perpetual Derivatives markets function as effectively and efficiently if certain traditional participants are less present or if the market is heavily weighted towards certain types of participants?**

As noted in our response to question 9 above, we expect that participation in perpetual futures markets for digital assets will likely mimic participation in spot markets. Accordingly, at least initially, we expect that the range of participants will be more limited than in traditional futures markets. We note, however, that despite this, perpetual futures markets function effectively and efficiently today in off-shore markets.

**11. The aims of derivatives markets include price discovery and risk mitigation. How do Perpetual Derivatives further risk mitigation? How do they further price discovery? Please provide likely use cases for Perpetual Derivatives.**

As noted in our response to question 2 above, perpetual futures contracts further risk mitigation and price discovery, due to 1) lower transaction costs from not having to roll the contract, 2) a more efficient price discovery mechanism for funding costs (relative to overnight funding markets), 3) lower duration risks, 4) increased liquidity, and finally 5) loss limiting mechanisms. Taken together, perpetual futures contracts have proven themselves to be an effective and efficient mechanism to hedge even volatile spot markets such as digital assets.

**12. Futures markets can provide arbitrage opportunities between futures and cash markets, with convergence at expiration being a hallmark of a properly functioning market. What arbitrage could reasonably be expected between Perpetual Derivatives, traditional futures, and cash markets? What cash market convergence could reasonably be expected?**



As noted in our response to question 3) above, a perpetual futures contract price could theoretically deviate from the spot market price for an indefinite period as the contract does not have an expiration date which forces the prices to converge. Accordingly there is potential for arbitrage between the perpetual derivative and the spot market. However we note that the embedded funding mechanism incentivizes market participants to ensure the prices do not deviate materially from cash markets for extended periods of time. Additionally, by concentrating liquidity in one contract perpetual derivatives are less likely to offer arbitrage opportunities simply due to mismatched order book dynamics.

Conversely, offering a traditional futures market alongside a perpetual futures market could offer material arbitrage opportunities. Without a funding rate mechanism, a traditional futures market price could differ materially from the perpetual futures price or the implied spot price (this phenomenon, known as contango, does occur in energy markets, for example).

### **13. Should Perpetual Derivatives be classified as swaps or futures contracts?**

We believe that perpetual futures should be classified as futures contracts, and not swaps, for purposes of Title 7. That would be in line with how perpetuals are currently traded on exchanges. We note, however, that perpetual futures may have features that operate more like swaps. Accordingly, we believe that no matter the classification, perpetual futures should be viewed as economic hedges for OTC derivatives in the digital asset space, and treated as such under applicable regulation (for example as “cover” under CFTC Rule 1.17(j) if classified as futures).

### **14. Is a Perpetual Derivative consistent with a traditional futures contract model whereby there is a specified expiry date, and the price of the contract represents the price of the underlying commodity at the time of expiry?**

As noted in our response to questions 1 and 3 above, a perpetual derivative contract does not have a specified expiry date. Additionally, the price of the perpetual futures contract represents the price of the underlying commodity plus or minus the embedded funding rate.

### **15. Do Perpetual Derivatives increase customer default risk that may expose other customers to potential losses in the event of an FCM insolvency resulting from the customer default?**

We believe that the loss limiting mechanism employed by typical perpetual futures exchanges,



combined with the eight hour settlement cycle in the most common perpetual futures contracts, materially limits customer default risks.

**16. Do Perpetual Derivatives raise unique issues in the event of a futures commission merchant or derivatives clearing organization insolvency under part 190 of the Commission's regulations or the U.S. Bankruptcy Code?**

We offer no view on this question.

We commend the Commission for its thoughtful engagement on this important topic. Perpetual derivatives represent a significant innovation in global derivatives markets, offering meaningful benefits to a wide range of participants. With appropriate regulatory oversight, these products can enhance market integrity, liquidity, and risk management capabilities.

We look forward to continued dialogue with the Commission and stand ready to provide any additional information or clarification as needed.

Respectfully submitted,

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Cc:

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